



Dave Heineman
Governor

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

(Nebraska Crime Commission)

Michael E. Behm, Executive Director

301 Centennial Mall South

P.O. Box 94946

Lincoln, Nebraska 68509-4946

Phone (402) 471-2194

FAX (402) 471-2837

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

November 20, 2009

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, November 20, 2009 at 9:30 AM in Lower Level Conference Room A of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Legal notice of the meeting was published November 6, 2009 in the Lincoln Journal Star.

As amended by LB 898, 2005 Legislature, a copy of the Nebraska Open Meetings Act was available for public review.

I. CALL TO ORDER

The meeting was called to order at 9:31 AM by Acting Chairman David Cookson. The following members were **in attendance**: Acting Chair David Cookson, Scott Arnold (arrived at 9:44 AM), Bill Brueggemann, Scot Ford, Alex Hayes (unable to vote due to not being officially appointed by the Governor), Bob Houston (arrived at 9:33 AM), Susan Jacobs, Gary Lacey, Mark Montgomery, Kathy Moore, Mike Moser, Don Overman (left meeting at 11:20 AM), James Riskowski (arrived at 9:56 AM), Fred Ruiz, Bryan Tuma, Derek Vaughn and William White. **Staff present**: Michael Behm, William Muldoon, Mike Friend, David Stolz, Bruce Ayers, Michael Overton, Jennifer Kirkpatrick, Monica Miles-Steffens, Lisa Stamm, Jamie Rivera, Brad Hicken and Sarah Schoen. **Others present**: Tom Stine, Attorney General's Office; Charles Lowe, Attorney General's Office; and Mike Kratville, Attorney for Robert Henderson.

II. APPROVAL OF MINUTES

Motion

A motion was made by Moser and seconded by Overman to approve the minutes of the Crime Commission meeting of July 24, 2009; Nebraska Coalition for Juvenile Justice meeting of September 11, 2009; Crime Commission Grant Review Committee ARRA meeting of October 2, 2009; and the Police Standards Advisory Council meetings of July 15, August 19 and September 16, 2009. The motion passed unanimously by acclamation.

III. PUBLIC HEARING FOR THE REVOCATION OF LAW ENFORCEMENT CERTIFICATION OF ROBERT HENDERSON, #LR-051-06

Chairman Cookson: Before we begin, I understand that Mr. Henderson is represented by Counsel today and is appearing for Mr. Henderson.

Kratville: Right

Chairman Cookson: He has the option of having a closed session if he desires.

Kratville: No, open session is fine.

Chairman Cookson: With that then, before we begin, I understand Colonel Tuma that you wish to recuse yourself from this proceeding.

Colonel Tuma: Yes

Chairman Cookson: So noted. We will now conduct a hearing from the Attorney General's Office. Is Mr. Lowe or Mr. Stine going to present the case?

Stine: Mr. Chair, Mr. Stine will present the case.

Chairman Cookson: Alright, you may begin.

Stine: Thank you.

Members of the Commission, Mr. Chairman, my name is Tom Stine from the Attorney General's Office. With me is Charlie Lowe, Assistant Attorney General, and as Chairman Cookson pointed out, Mr. Kratville is here representing Mr. Henderson.

This is the matter before us on the revocation of the law enforcement certification for State Patrol Trooper, Robert Henderson. Mr. Henderson was certified as a law enforcement officer on December 11, 1987. He was employed as a State Patrol trooper from September 14, 1987 until March 15, 2006.

In June 2004, Mr. Henderson became a dues paying member of the Knights Party, an organization affiliated with the Ku Klux Klan, and this was admitted to by Mr. Henderson. In September 2005, as a member of the Knights Party, Mr. Henderson posted five internet messages on the Knights Party website. In those internet messages, he was requesting information on how he could be put in touch with, as he put it, "other clansman and clanswomen" who held similar interests to his own, god, country and race. He made these postings on the website using his moniker, which he had to choose, of "White Knight of Nebraska." In testimony at the PSAC hearing, he testified

that he chose that name because he thought it was cool, a very cool name for him to have.

Robert Henderson's KKK activity was ultimately discovered by the State Patrol and an investigation ensued. This investigation resulted in Mr. Henderson's dismissal from the State Patrol on March 15, 2006. This dismissal again was ultimately confirmed by the Nebraska Supreme Court and the United States Supreme Court in February 2009.

On September 5, 2006, a citizen complaint was received by this Commission requesting that Mr. Henderson's certification be revoked based on his conduct in joining and participating in the Ku Klux Klan. On March 2, 2007, our office filed a formal complaint requesting revocation of Mr. Henderson's certification. On Sept 16, 2009, an evidentiary hearing was held by the PSAC. Mr. Henderson was present and testified. His counsel was present. They participated fully in the hearing. The PSAC considered the testimony and evidence, and they voted unanimously to revoke Mr. Henderson's certification subject of course to the review and approval of this Commission, which is why we are here today. The PSAC issued its findings on October 9, 2009. The matter now, of course, is in front of this Commission for review and approval pursuant to Neb. Rev. Stat. §81-1403.

Mr. Chairman, at this point I have exhibits I would like to offer for this hearing. The State would offer Exhibit #1 which is the entire file of the Police Standards Advisory Council. Exhibit #2 which is a transcription of the live testimony of the hearing held on September 16, 2009. Exhibit #3 actually consists of many different parts, I think it is four or five different parts, but it is all of the physical paper exhibits that were offered and received at the hearing on September 16th, and then Exhibit #4 is the affidavit of publication of this particular event.

Mr. Chairman then, with those submissions, we request this Commission approve the PSAC's decision to revoke Mr. Henderson's law officer certification.

Chairman Cookson: Mr. Kratville, is there any objection to any of the exhibits?

Kratville: No, I have no objections.

Chairman Cookson: Mr. Kratville, would you then like present on behalf of Mr. Henderson?

Kratville:

Thank you Mr. Cookson.

Folks, in the history of this organization, you have never had a case come before you or come before this body, even when you weren't on there, where a officer's first amendment rights and collective bargaining rights were have found to have been violated by the state. Yet, Mr. Henderson sits today without a job. That's ok, that's the Supreme Courts preference to say in spite of these first amendment violations, in spite of these collective bargaining violations you can't work for the State Patrol. But that is a far cry from something very different, which is what the state is asking for you to do here today, which is strip somebody of their license.

Let's talk about what the arbitrator did, what the Supreme Court did, what Judge Chevront did because it is really, really important to understand why you may agree, some of you, maybe all of you, with the idea that he can't work for the State Patrol, but I hope that a majority of you get to the point of saying even if he can't work for the State Patrol, he can retain his license, and that is the position I want all of you to adopt here today.

The arbitrator noted not only was there collective bargaining violations and first amendment violations, the arbitrator also made some other findings that I think are very important. Number one, there were no actions on the job which affected the State Patrol at all, at all. Number two, there was no serious misconduct. Number three, there was no conduct unbecoming. Number four, he did not violate the Patrol's code of ethics, and number five, that he had led a decent and honorable life. Now that may be words to some people, but they are important because when you get to Judge Chevront's decision in District Court, of course the state has every right to appeal it, but let's think about kind of the law that underlies the arbitrational ward of how you get from point A to point B. Judge Chevront, in the District Court, says on page 7 of the decision, "this court has accepted the factual findings of the arbitrator as true." The Supreme Court added very similar language on page 244 when it says "a court may not overrule an arbitrators decision simply because court believes its own interpretation of the contract or the facts is a better one; therefore, in this case, we do not revisit, we do not revisit the arbitrators factual findings, the interpretation of a collective bargaining agreement or the ultimate conclusion that the State Patrol violated the collective bargaining agreement in its termination of Henderson's employment. Nor do we revisit the arbitrator's discussion of constitutional issues. What the Supreme Court said, I'm going to read one more line then I'll come back to the discussion. "The only issue before this court is whether the arbitrator's remedy for the violation of the collective bargaining agreement is enforceable." I hate to sound like a lawyer

for some of you who aren't lawyers, but I got to. That's what this case is about. What the arbitrator says, we win on first amendment, we win on collective bargaining, we win and we get reinstated. What Judge Cheuvront said and the Supreme Court said is, you still win on first amendment, you still win on collective bargaining, but you don't get your job back. I don't like that decision, but that's their call, that's not my call. But again, that's a very different situation. Then saying, you can't work in law enforcement or we're going to jerk your certificate. This is very different from the Hauser case, for instance. It was before some of you I think at one point. He basically beat the hell out of his wife. Makes sense to me because he committed a felony, and that's one of the bases for revoking a certificate in the state of Nebraska. I get it, no problems, no arguments. Mr. Valentino may have some arguments, but I don't. But this would be the first time in the State of Nebraska history to revoke a certificate for first amendment violations and collective bargaining violations that all the courts said exist and they don't overturn. When we were out in Grand Island, part of the argument I made to a couple of you who are here today, I said, you know, holding onto his certificate probably isn't going to do a lot of good because when I looked around the room, not only to you, but to some of the others who were in the room at that time, I said, I could not fathom that any law enforcement agency, county, city, state whatever would hire Mr. Henderson. So maybe holding onto his certificate is a paper victory, maybe, but it is still an important one. What we are asking you here to do today is very simple, you don't have to like what he did, you don't have to agree with what he did, but I hope that all of you when we go in there to vote think of one thing, and one thing only that Mr. Henderson prevailed on first amendment and collective bargaining violations, and if he was a lawyer, a doctor, a pharmacist, an architect or any other profession that regulates in the State of Nebraska, he wouldn't lose his license. I hope this agency isn't the first in Nebraska history to basically say you can violate the rights and we're still going to take your license. Not just for the sake of Mr. Henderson, but for every other person that ever comes down the pipe, not only in this agency, but every other agency where a license is at stake. These principles are really important, not just for Mr. Henderson, but for everybody and that's why even if you agree that he shouldn't be working for the State Patrol, I hope that a majority of you agree that he should retain his license. Thank you.

Chairman Cookson: Is there any member of the public who wishes to address the Commission on this matter?

If not, then the matter is considered submitted. Is there a motion regarding Mr. Henderson's law enforcement certification case LR-051-06?

Motion

Chief Ford: Mr. Chairman, I would move that we approve and uphold the PSAC decision.

Brueggemann: Second

Chairman Cookson: It's been moved by Mr. Ford, seconded by Mr. Brueggemann to uphold the PSAC recommendation of revocation. Any discussion?

Jacobs: Is there any response from the State with respect to these arguments?

Stine: I could respond briefly if you would like.

Jacobs: Yes

Stine: Basically, maam, Mr. Henderson relies on two general principles. That the District Court overruled somehow and upheld the arbitrator's decision and the Nebraska Supreme Court also upheld that decision. The decision of the Nebraska Supreme Court is one of the exhibits in the file. I would, it's a long opinion, and it's worth reading because I think it is bad strategy frankly for Mr. Henderson to rely on that opinion. What Mr. Kratville has done is basically taken little snippets of sentences out of that opinion to try to convince you that is what they said, and that's not what they said. In fact, Judge Cheuvront vacated the arbitrator's legal conclusions of law which Mr. Henderson is trying to rely upon at this point. So no, the first amendment issues have not been found in his favor. The issues about police ethical standards and personal conduct standards have not been upheld by the District Judge or by our Nebraska Supreme Court. Our Nebraska Supreme Court said that this gentleman cannot hold a position in any law enforcement agency. The court didn't limit it to the State Patrol, it said in any law enforcement agency because of what he has done. So that would be my general response to that.

Yes, Mr. Lacey.

Lacey: Were the issues of the first amendment squarely presented to the Nebraska Supreme Court?

Stine: No. Nor did the arbitrator for that matter.

Lacey: Well then how is it that, I mean why not, I mean he's arguing that here?

Stine: I can't answer that. I mean it's not the first amendment issues were addressed by the PSAC and in their recommendations and decisions, they do discuss the first amendment issues. They brought that up in the defense to the PSAC, but that was not an issue that was decided

by the arbitrator. I mean there were specific issues that were layed out in the arbitration, and that was not one of them, even though the arbitrator spent I think over 50% of his opinion talking about it.

Chairman Cookson: Any other discussion or questions? Seeing none, roll call vote please.

Schoen: Brueggemann

Brueggemann: Yes

Schoen: Ford

Ford: Yes

Schoen: Houston

Houston: Yes

Schoen: Jacobs

Jacobs: Yes

Schoen: Lacey

Lacey: Yes

Schoen: Montgomery

Montgomery: Abstained

Schoen: Moore

Moore: Yes

Schoen: Moser

Moser: Yes

Schoen: Overman

Overman: Yes

Schoen: Ruiz

Ruiz: Yes

Schoen: Vaughn

Vaughn: Yes

Schoen: White

White: Yes

Schoen: and Colonel Tuma recused himself

Schoen: Arnold

Arnold: Abstained

Schoen: Motion carried

Chairman Cookson: Did you get Hayes?

Schoen: Mr. Hayes has not been officially appointed, so he cannot vote.

Chairman Cookson: Good to know. I think we had that issue with Eric when he was here. Motion carries. We will move to the next item on the agenda, which is the Executive Director's report.

IV. EXECUTIVE DIRECTOR'S REPORT

Mike Behm presented his Executive Director's report noting the following:

- Mike Friend was appointed by Governor Heineman as Director of the Office of Violence Prevention, and Behm welcomed him aboard.
- Behm stated that in your mailout packet there was a blue piece of paper with a list of Crime Commission meetings scheduled for 2010.

V. OLD BUSINESS

A. No Old Business

VI. NEW BUSINESS

A. Nebraska Law Enforcement Training Center

1. Instructor Certifications

The Crime Commission next considered one request for **General Instructor Recertification**; two requests for **Professional Instructor Certification**; and 12 requests for **Professional Instructor Recertification**. The Police Standards Advisory Council's recommendations were reported by Mark Montgomery.

Motion

A motion was made by Vaughn and seconded by White to grant the following instructor certifications per Police Standards Advisory Council's recommendations: General Instructor Recertification to Erin E. Sims, Lincoln Police Department; Professional Instructor Certification to Joseph Kaufman, Lincoln Police Department and David E. Thome, N.L.E.T.C. (Addition of new area (605) LEDS/EVOC); and Professional Instructor Recertification to Robert M. Brenner, Lincoln Police Department, Michael L. Engel, Lincoln Police Department, Launa Groves, Lincoln Police Department, Robert S. Kubicek, Lincoln Police Department, Michon R. Morrow, Lincoln Police Department, Johnny L. Pitts, Lincoln Police Department, Michael A. Ripley, Lincoln Police Department, Conan Schafer, Lincoln Police Department, Matthew J. Tangen, Lincoln Police Department, John J. Walsh, Lincoln Police Department, Kimberly K. Wollery, Omaha Police Department and Robert R. Ziemer, Lincoln Police Department. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Lacey, Montgomery, Moore, Moser, Overman, Ruiz, Tuma, Vaughn and White. Motion carried unanimously.

B. Update on JAG Planning and Review of Grant Review Process/Supporting Operating Instructions

Jennifer Kirkpatrick highlighted the process outlined in the Operating Instructions and federal guidelines that the grants division and attached Committees are required to follow for grant reviews and funding decisions for all grants to be awarded (**See Attachment #1**). The importance of this was stressed to uphold a fair opportunity for all applicants.

Kirkpatrick next updated the Board on how she has been working to improve the JAG strategic plan for funding of JAG monies. The National Criminal Justice Association was awarded a Technical Assistance grant from BJA to allow them to work with states. She stated that we are currently awaiting follow-up from NCJA to provide technical assistance with this matter. Currently, to take steps in preparation of looking at task forces, she also provided the steps she is taking to review the current task forces and the steps being taken to ensure sustainability of these task forces.

C. Award of ARRA VOCA Grant Funds - \$352,419 of the Total Award of \$587,100 (See Attachment #2)

Lisa Stamm informed the Board that they had a total of \$587,100 of VOCA ARRA funds to award. She stated the Crime Commission staff recommended awarding \$337,305, which left a remaining total of \$234,681 of funds not recommended for award. Stamm reported the project period for funds will end September 30, 2012.

Stamm reported that 18 applicants applied for these funds and requests exceeded the amount of funds available for award by \$320,893. Two of these applicants were new programs, Dawson Gosper County CASA and Identity Theft Council of Nebraska.

Stamm stated that the staff review members consisted of Jennifer Kirkpatrick, Monica Miles-Steffens and herself. They presented their recommendations to the Crime Commission Grant Review members on October 2, 2009. These members were as follows: Derek Vaughn, Gary Lacey, James Riskowski, Alex Hayes, Jon Freudenberg, Jennifer Kirkpatrick, Monica Miles-Steffens and Lisa Stamm.

Stamm informed the Board that a copy of the complete listing of applicants and recommendations for award were provided in their mailout packets.

Stamm continued on by reporting that nine programs were recommended for denial by the staff review committee, and eight of those nine were recommended for denial by the grant review committee. The main reason for denial of funds was due to duplication of funding from the regular VOCA monies that had been recommended for award.

Stamm stated that per Operating Instruction #11, all eight denied applicants were given the opportunity to appeal the recommendations and were notified via certified letter on October 7, 2009 of the reasons for denial and the process they need to follow should they wish to appeal the recommendation. No appeals were received from any of the eight denied applicants.

Stamm next discussed with the Board grant #09-VX-2003, Crisis Center of Grand Island. She stated that the staff review committee recommended this grant application be denied based upon their history of late and inaccurate reports, inadequate grant management and a poorly written grant application. This program submitted multiple late reports for fiscal years 07 and 08, and provided personnel requests that included multiple activities not allowed under VOCA. Stamm reported, however, that the grant review committee indicated that there is a need for a bi-lingual advocate in that area. While the staff review committee did not disagree, they reported that this applicant did receive a bi-lingual advocate through regular FY 09 VOCA funding. It was also reported that the need for a bi-lingual advocate was not justified from the written grant application.

As a result, Stamm stated that a motion was made by the Grant Review Committee to amend the staff recommendation as follows: *to table recommending grant #09-VX-2004 at \$15,114 for the bi-lingual advocate until the January 2010 Crime Commission meeting. At that time, if regular funding reports have been received complete, accurate and on time for the quarters ending with due dates of October 15, 2009 and January 15, 2010, it will be recommended to the Crime Commission with a potential start date of funds of January 20, 2010; however, if these requirements are not met, the recommendation will be taken before the Crime Commission for termination of funds.*

Stamm reported that the applicant did turn in their quarterly activity reports on time for the quarter ending October 15, 2009; however, the motion made by the Grant Review committee is not in adherence with Operating Instruction #11, that funding recommendations should be based upon the performance and ability of the applicant to manage a grant program; and being on time for one quarter does not adequately reflect successful grant management.

Several questions were then asked by Board members to clarify this situation. One of the main points from this discussion is that the Operating Instructions need to be looked at and revised to avoid other problems in the future and to ensure these Operating Instructions mirror what the Federal Government is requiring as well.

Stamm was also asked to explain why grant #09-VX-2000, Voices of Hope, was denied. Stamm gave many examples as to why staff felt they were justified in denying this grant application.

A lengthy discussion took place regarding these two grants and the process and procedures that were followed which resulted in the decision to deny these grants and whether or not these decisions were justified. Again, it was discussed how important it will be in the near future to revisit the Operating Instructions and revise these to avoid problematic areas in the future. It was stated time and time again that until these rules are revised, the staff and grant review committee must follow the current rules set in place. We cannot make exceptions at this time.

It was made clear that Crime Commission staff provides technical assistance as much as possible to help programs be successful; however, they cannot constantly babysit every program throughout each phase of the grant application process. The best they can do is follow the current rules in place. Until these are changed, nothing can be done otherwise.

Motion

A motion was made by Vaughn and seconded by White to accept the Grant Review Committee's funding recommendations and contingency stipulations of award as outlined for the \$352,419 of 2009 VOCA ARRA Grant Funds. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Lacey, Montgomery, Moore, Moser, Overman, Riskowski, Ruiz, Tuma, Vaughn (Abstained from Grant #09-VX-2013) and White. Motion carried unanimously.

SEE ATTACHMENT #2

Stamm next discussed with the Board a proposed plan for the remaining VOCA ARRA funds. She stated that there is currently a remaining amount of \$234,681, and the Crime Commission has approached the Nebraska State Patrol to use the remaining VOCA ARRA funds to initiate two victim witness units in the northern and western parts of Nebraska. Stamm stated that these two areas of the state have minimal victim service providers, and in many parts of these two regions, victim service providers do not exist. She informed the Board that there were a total of 920 victim related crimes in the troop E area from January 08 to January 09, and 283 victim related crimes in the troop B area from January 08 to January 09. It is believed the State Patrol would be the best fit as victim witness units are typically in county attorney or law enforcement agencies. In addition, the State Patrol has an excellent history of successful grant management with the Crime Commission. They have expertise in the criminal justice arena and sensitivity to the needs of victims of crime throughout the state of Nebraska.

Stamm next recommended the Board move to allow the Crime Commission and herself to continue working with the State Patrol in developing this partnership for the remaining VOCA ARRA funds.

Motion

A motion was made by White and seconded by Overman to allow the Crime Commission and Lisa Stamm to continue working with the State Patrol in developing a partnership to initiate two victim witness units in the northern and western parts of Nebraska with the remaining VOCA ARRA funds. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Lacey, Montgomery, Moore, Moser, Riskowski, Ruiz, Tuma, Vaughn and White. Motion carried unanimously.

D. Award of VAWA ARRA Grant Funds - \$931,165 of the Total Award of \$1,095,462

Monica Miles-Steffens informed the Board that in April 2009, the VAWA Advisory Board members were asked to volunteer to help develop the priorities for the ARRA VAWA funds. She stated that in addition to these volunteers, the Crime Commission staff reached out to other stakeholders to ensure all required constituent groups were represented. Miles-Steffens noted that the ARRA funds must maintain the focus of the VAWA Act, as well as the ARRA focus of creating or retaining jobs.

Miles-Steffens reported that the ARRA VAWA Implementation plan was approved by Crime Commission at the July 2009 meeting, and then it was approved by the federal VAWA office in October 2009.

She next stated that after the funds were announced, 12 applications were received and reviewed through the normal grant review process as governed by Crime Commission Operating Instructions. These applications were reviewed by three Crime Commission staff and the Crime Commission grant review committee. Final approval of these applications was decided upon by this Board. Miles-Steffens reported that the VAWA Advisory Committee was not able to be a part of the actual reviews due to the short time frames of getting these grants out.

Miles-Steffens informed the Board that there was a total of \$1,095,462 available for award. She stated that they had \$941,968 in requests with only one program being recommended for denial, grant #09-WX-7004, Bright Horizons. This grant was recommended for denial because it was duplicative of their FY VAWA and FY ARRA VOCA requests and no appeal was received for this grant. She stated that all other applicants submitting applications were recommended for award at some level. She felt it important to note that many of the items denied in the applications were either duplicate requests or items not allowable under VAWA guidelines. The following are examples of items that were denied:

- Food for judges when training was only half day;
- Indirect costs;
- Training that doesn't fit the scope; and
- Positions and equipment that do not fit VAWA guidelines.

Miles-Steffens stated that of the \$941,968 in requests, staff recommended a total of \$530,032, which left \$565,430 remaining to be allocated.

This then resulted in the Crime Commission Grant Review Committee meeting and discussing each grant application. The grant review committee supported the staff review recommendations with the exception of the Attorney General's office. They recommended a \$2,000 increase, (from \$4,000-\$6,000), which was against staff recommendations because of the information provided in the written grant application as required by the Crime Commission's operating instructions. After discussion of all grants and the increase to the Attorney General's office, \$563,430 remained unallocated.

Miles-Steffens reported that due to the federal project period ending on April 30, 2011, there was no time to re-announce these funds, which resulted in the Crime Commission staff presenting a recommendation to the grant review committee to allow another opportunity for agencies recommended for award to secure additional funding for personnel and personnel related expenses. This recommendation then led to a discussion and a motion by the grant review committee to allow applicants recommended for award another opportunity to apply for personnel and personnel related expenses to support the focus of the ARRA funds. The grant review committee agreed that staff would review these requests and make final recommendations at this Board meeting as there was no way to get the grant review committee together before this meeting. An updated listing of these recommendations was handed out to the Board members and presented for their review and approval.

Miles-Steffens informed the Board as to what steps were taken to notify the applicants of the opportunity to request additional funds. She stated that a detailed cover letter and summary comment sheets were sent to each applicant on October 7, 2009. The letter outlined the opportunity to submit additional personnel requests and the directions and deadline for doing so. She stated the deadline to submit an additional request was October 22, 2009. The following instructions were provided in the letter to the applicants:

1. They could submit requests for additional personnel positions as it related to the initially funded project and/or to accomplish the vision and mission of the agency and purpose of VAWA funding.
2. They could request additional funds necessary for the positions to accomplish their job, such as job travel, required training, and/or necessary supplies and equipment.
3. They could not request positions or other items that were denied by the staff and grant review committees. These items were outlined in their summary comment sheets.
4. They had to submit a new budget for the new budget requests, including the detailed budget pages and narratives, and they had to have clear documentation of how this was a new position or how the job was being retained, the date it would have been eliminated, etc.
5. The 25% match still applied, it could be cash or in-kind.

Miles-Steffens also stated that this letter explained the applicant's right to appeal if there were recommendations for denial. No appeals were received.

Miles-Steffens, ARRA Program Manager, contacted each project director to explain the opportunity and offer any assistance. She was able to talk to everyone on the phone or in person except for Lancaster County, who never returned her message.

She stated that an additional five requests for increased budgets were received, which added up to \$399,133 in additional requests. These additional requests were then reviewed by Crime Commission staff, and any additional comments or contingencies were added to the summary comment sheets.

Motion

A motion was made by Vaughn and seconded by Ford to approve the Crime Commission Grant Review Committee's and the staff's supplemental funding recommendations and contingency stipulations for \$771,724.

Susan Jacobs then requested to amend the motion as follows:

Motion

A motion was made by Jacobs and seconded by Lacey to approve grant #09-WX-7009, Lancaster County Justice Council – Lincoln for \$104,220 and to add an additional \$55,221 submitted for personnel needed to ensure 24 hour advocacy and culturally specific victim services. Voting in favor of the motion: Arnold, Houston, Jacobs, Lacey, Montgomery, Moser, Riskowski, Ruiz and Tuma. Voting against the motion: Brueggemann, Ford, Vaughn and White. Abstaining from the motion: Moore. Motion carried.

Jacobs stated that this would mean that Lancaster County could contract to provide these services.

Miles-Steffens then stated that in their application, it was not clear as to whether or not these jobs were new, existing or in danger of being eliminated. As a result, it was not clear as to whether or not they were supplanting. She stated that staff supports their application as long as they contract with the Family Violence Council and not Voices of Hope.

Motion

A motion was made by Vaughn and seconded by Ford to approve the Grant Review Committee's and the staff's supplemental funding recommendations as amended by the Crime Commission Board and contingency stipulations for \$826,945. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Lacey, Montgomery, Moore, Moser, Riskowski, Ruiz, Tuma, Vaughn (Abstained from Grant #09-WX-7009 and Grant #09-WX-7011) and White. Motion carried unanimously.

SEE ATTACHMENT #3

E. Award of ARRA JAG Grant Funds – \$3,030,711 (Local Projects Award: \$2,079,576; State Projects Award: \$951,135) of the Total Award of \$7,414,211 (Local Projects Award: \$4,605,708; State Projects Award: \$2,808,503)

Miles-Steffens next reported that for the State JAG monies, there were four state applications. First, the Department of Corrections was recommended for full funding of their request to upgrade their Criminal Information Database.

Second, the Nebraska State Patrol was recommended to receive \$171,000 of their \$1,223,523 request. Miles-Steffens reported that at the time the staff reviewed this grant, it appeared the information that was submitted in the written grant would be supplanting the current JAG allocation of eight investigator positions that were just awarded. She stated that the grant did not provide any documentation for ARRA to justify the positions were new or in danger of being eliminated. As a result, it was recommended for funding of \$171,000 for new Lieutenant Position to oversee the task force and coordinate the statewide meetings that are proposed to discuss future task force strategies, along with some travel.

Third, the Attorney General's Office was recommended to receive \$20,000 of their \$45,276 request. They requested funding for one year to conduct gang training statewide in conjunction with the Midwest Gang Association and to also conduct training on the Violent Crime Offender Registry.

Finally, the Crime Commission was recommended to receive \$700,000 of their \$1,040,450 request. This grant is to make significant upgrades to hardware and software for NCJIS.

For the local JAG monies, Miles-Steffens reported the following:

First, the City of Lincoln was recommended to receive \$309,891 of their \$468,893 request. This grant requested two county attorneys and a legal secretary be funded. The amount recommended by staff, based on the written application, included one county attorney, the legal secretary and equipment that related to investigative activities of the task force. The grant review committee chose to reinstate the second county attorney.

Second, the City of Fremont was recommended to receive \$104,600 of their \$112,500 request. This request maintains an investigator in the III Corp task force whose funding was temporary due to regular JAG reductions.

Third, Phelps County-Holdrege was recommended to receive \$60,000 of their \$77,954 request. This grant funds a new investigator in Phelps County (Holdrege) as part of CANDO.

Fourth, the City of Norfolk and Dawson County were recommended for denial because the project was requesting their own training simulator equipment, similar to the MILO utilized at the Law Enforcement Training Center. She stated they felt this

was somewhat of a duplication; however, the Crime Commission staff indicated that they would like to meet with them to discuss training needs/gaps and to potentially work with the Law Enforcement Training Center to see if there are future opportunities for funding to address training needs.

Finally, North Platte Police Department was also denied because there was not sufficient justification as to why two new CODE task force officers were needed in Dawson County or why these positions were lost and no longer funded.

Bill White next stated that for years we have fought to get the MULE task force funded, and it appeared to him they were dropping this. Miles-Steffens responded by saying that based on the written grant application it appeared they were requesting the same budget that they had just been awarded for in their regular JAG dollars. There was no documentation to tell them that these positions were in danger of being potentially being eliminated.

Colonel Tuma responded by stating that the positions will be able to be sustained through February 2010; after which, these positions will disappear if additional funding is not received.

Miles-Steffens then indicated that the City of Omaha grant must be reduced back to \$612,235 as recommended by the staff review. The grant review committee had recommended the Crime Commission staff get an opinion from the federal program manager as to whether or not the Shot Spotter request was an allowable expense. The federal program manager denied the request, thus making it an unallowable expense.

Motion

A motion was made by Vaughn and seconded by Moser to restore the \$803,030 to the already recommended \$171,000 for a total of \$974,030 original recommendation to the State Patrol. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Lacey, Montgomery, Moore, Moser, Riskowski, Ruiz, Vaughn and White. Abstaining from the motion: Tuma. Motion carried unanimously.

Chairman Cookson next addressed the Board stating that he understands that there are some difficulties with local agencies in that they do not have the personnel to make proper applications and keep up with reporting requirements. However, he stated that it troubles him there is not better communication between agencies to ensure issues such as what took place with the State Patrol do not happen. He stated that with the Attorney General's office being a \$10 million dollar state agency and the State Patrol being a multi-million dollar agency, he is troubled by the length of comments and the fact that it appears to him that there is a more adversarial relationship rather than a cooperative relationship. He would rather there be a cooperative relationship.

Miles-Steffens stated that the grants division is willing to meet with anyone regarding their grant applications, and she also stated that it does not matter if you

are a \$20,000 dollar agency or a \$10 million dollar agency, each agency is held to the same standards.

Michael Behm also stated that the Crime Commission is an open agency, and he is willing to meet with anyone regarding their grants as well.

Motion

A motion was made by White and seconded by Brueggemann to accept the funding recommendations and contingency stipulations of award as outlined for the \$2,840,891 (Local Projects Award: \$1,086,726; State Projects Award: \$1,754,165). Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston (Abstained from Grant #09-DX-9000), Jacobs, Lacey, Montgomery, Moore, Moser, Riskowski, Ruiz, Tuma, Vaughn (Abstained from Grant #09-DX-9010) and White. Motion carried unanimously.

SEE ATTACHMENT #4

VII. OTHER BUSINESS

James Riskowski updated the Board on LB 598, which impacts the Crime Victims Reparations Committee in that they are required to establish a Nebraska Trust. He informed the Board as to where they are at in the process and the steps to be taken in the near future.

Fred Ruiz next complimented and thanked Jamie Rivera for coming to Grand Island in August with the auditors. He said everything went well and wanted to thank her.

Kathy Moore then complemented the staff for a great job throughout the meeting and thanked them for all their hard work.

VIII. ADJOURNMENT

The next scheduled meeting of the Commission will be **Friday, January 29, 2010 at 9:30 AM in the Nebraska State Office Building, Lower Level Conference Room F, Lincoln, Nebraska.**

There being no further business, the meeting adjourned at 12:21 PM.

Respectfully Submitted,



Sarah J. Schoen
Administrative Assistant

Attachment #1

HIGHLIGHTS FOR GRANT REVIEW AND FUNDING DECISIONS

- Crime Commission Operating Instruction (OI) #11 identifies that all applications will be reviewed by a staff review team of at least three people, grant review team (Crime Commission or NCJJ), and final decisions by the full Crime Commission.
- In doing this process, OI #7 provides guidance and adherence to a fair process by including, but not limited to:
 1. No staff member (the OI includes Commission members in this definition of staff member) shall use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.
 2. Staff members shall conduct themselves so as not to give the impression that any person can improperly influence them or receive improper favors in the performance of their official duties.
 3. A staff member shall not solicit for private gain or engage in any business transaction or professional activity, while acting in the capacity of the Commission.
 4. A staff member having recommended to the Commission either the making of a contract or a course of action of which the making of a contract is an express or implied part shall at no time thereafter have an interest in such contract.
- The staff review provides summary comment sheets that have thorough comments of the review that include but are not limited to: all the federal/state guidelines, Crime Commission guidelines, and past grant management. Staff makes recommendations based on these and the quality of the written grant as outlined in the OIs.
- Recommendations can be made for award in the full amount, partial amount or denial. Operating instruction #11 outlines the following guidance for recommendations to be made. Funding recommendations and reason for denial for each submitted grant application are based on but not limited to, the following:
 1. Eligibility of the applicant;
 2. Adherence to federal and state requirements and guidelines;
 3. Completeness, clarity, continuity and consistency of the written application. The written application shall include a thorough description of the problem; relevant statistical documentation of the problem; relevant solutions to address the problem; goals, measurable objectives, performance indicators, activities and timetable relevant to addressing the problem; a budget and budget narratives which support the request of funds;
 4. Ability of the proposed program to address the identified problem;
 5. Other resources available to address the problem including an explanation of how the grant applicant's proposal will work with and/or coordinate with existing resources;
 6. Cost effectiveness of the proposed project;
 7. Amount of funds available; and
 8. If previously funded, the performance and ability of the applicant to manage a grant program, including the timely submission of required reports to the Crime Commission.
- Strict adherence to these guidelines provides consistency and integrity to the process.
- In the event an applicant wishes to appeal due to denial and feels the process was not followed they can appeal based on the following:
 - Operating Instruction #12 outlines the grant appeal process.
 - The basis of an appeal must consist of one or more of the following:
 1. A decision by a grant review committee or the Executive Director which was biased, arbitrary or prejudiced against the applicant;
 2. A failure by the Crime Commission staff, Executive Director and/or a Crime Commission grant review committee to properly follow written procedures which directly affected the denial;
 3. A failure by the Crime Commission staff, Executive Director and/or a Crime Commission grant review committee to follow written guidelines which directly affected the denial.
 - The appeal must be received in writing 10 working days from the date of the notice. An appeal cannot be made if the applicant was not recommended for the full request.

Why is Process is Important?

1. A valid appeal could jeopardize all funding recommendations for that cycle of grants. There are numerous issues that would arise if a funding cycle had to be re-opened due to a valid appeal, including but not limited to:
 - Expiration of federal grant deadline, causing all funds to be lost
 - Local programs may not be able to cover expenses for the lapse in funding and could close
 - Applicants would have to take time, effort and funds to re-apply
 - Media attention
 - Increased scrutiny by federal funding agencies
 - Discredit the reputation of the agency and Crime Commission Board
2. This would also create a significant workload and operational cost issue with the minimal staff in the grants division. Currently there are 4 full time grant administrators and one part time grant administrator and 2 support staff. All administrators manage at a minimum two grant programs. The ARRA program administrator was just added as the 4th administrator in June and is the first addition to the grants division staff in over 15 years. In addition, the cost effectiveness is important as federal funds are viewed with high scrutiny and transparency.

Currently the Grants Division oversees and processes:

403 active grants

1,213 reports on a quarterly basis and 4,852 on a yearly basis not including the estimated 240 revised reports that are submitted.

500+ subgrant adjustments are processed a year

For these subgrantees this equals \$25,763,437 in aid administered and tracked by 4.5 grant administrators. In the last five years the amount aid administered has increased by \$7,724,902 or increased by 42%, which includes seven new programs in the past 2 years.

Another part of administering these funds for all administrators includes:

- Formal grant management training and application workshops
- Informal grant management training and project technical assistance on a daily basis to subgrantees and general public.
- Monitoring peripheral funds such as interest, state advisory group funds, and administrative funds.
- Over-site on various contracts.
- Onsite grant monitoring for each program.
- Reviewing and tracking financial monitors conducted.
- Development of special initiatives, outside speaking engagements, and strategic planning.
- Federal and local grant close outs.
- Quarterly and annual state and federal reports.

Attachment #2

2009 VOCA ARRA

Total amount available: \$587,100

Total amount requested: \$907,993

Total

amount recommended: \$352,419

<i>Number</i>	<i>Agency-City (Program Title)</i>	<i>Amount Requested</i>	<i>Amount Recommended Staff Rvw.</i>	<i>Amount Recommended Grant Review</i>	<i>Amount Recommended Crime Comm.</i>
09-VX-2000	Voices of Hope - Lincoln (DV/SA Advocacy Project)	\$ 56,037.00	Denied	Denied	Denied
09-VX-2001	Dawson/Gosper Co CASA - Lexington (Expanding & Diversifying the CASA Program)	\$ 18,081.00	Denied	Denied	Denied
09-VX-2002	DA/SA Services - McCook (DASAS ARRA Victim Advocacy)	\$ 60,198.00	\$ 60,053.00	\$ 60,053.00	\$ 60,053.00
09-VX-2003	City of Beatrice - Beatrice (Gage Co. VA Program)	\$ 25,195.00	\$ 11,196.00	\$ 11,196.00	\$ 11,196.00
09-VX-2004	Crisis Center - Grand Island (SADV Services)	\$ 21,661.00	Denied	\$ 15,114.00	\$ 15,114.00
09-VX-2005	City of Lincoln PD - Lincoln (LPD VW Unit)	\$ 165,067.00	Denied	Denied	Denied
09-VX-2006	Child Advocacy Ctr. - Lincoln (Child Advocacy Ctr.)	\$ 37,900.00	\$ 37,900.00	\$ 37,900.00	\$ 37,900.00
09-VX-2007	Dawson County - Lexington (Enhancing the Dawson VW Services)	\$ 14,000.00	Denied	Denied	Denied
09-VX-2008	Seward County - Seward (Seward Co. VA Program)	\$ 63,762.00	\$ 40,362.00	\$ 40,362.00	\$ 40,362.00
09-VX-2009	Friendship Home - Lincoln (Reinstatement of Friendship Home's Case Mng. & Advocate)	\$ 39,130.00	\$ 38,430.00	\$ 38,430.00	\$ 38,430.00
09-VX-2010	Rape/Domestic Abuse Program - North Platte (Rape/Domestic Abuse Program)	\$ 30,717.00	\$ 26,742.00	\$ 26,742.00	\$ 26,742.00
09-VX-2011	City of Kearney - Kearney (Crime Victim Asst. Program)	\$ 86,698.00	Denied	Denied	Denied
09-VX-2012	The SAFE Center - Kearney (Safe Services for South Central NE)	\$ 42,434.00	\$ 41,991.00	\$ 41,991.00	\$ 41,991.00
09-VX-2013	Douglas Co Atty. - Omaha (Omaha/Douglas Co. Victim Asst.)	\$ 82,664.00	\$ 67,664.00	\$ 67,664.00	\$ 67,664.00
09-VX-2014	Bright Horizons - Norfolk (Advocacy & Services for Victims)	\$ 45,026.00	\$ 12,967.00	\$ 12,967.00	\$ 12,967.00
09-VX-2015	Identity Theft Action Council of NE - Omaha (Victim Asst. Project)	\$ 30,415.00	Denied	Denied	Denied
09-VX-2016	Heartland Family Service - Papillion (Heartland Family Service)	\$ 29,040.00	Denied	Denied	Denied
09-VX-2017	Family Rescue Services - Chadron (DV/SA Services Program)	\$ 59,968.00	Denied	Denied	Denied

TOTALS

\$ 907,993.00 \$ 337,305.00 \$ 352,419.00 \$ 352,419.00

Attachment #3

Violence Against Women Act (VAWA) 2009

ARRA Funds

Total funds available: \$1,095,462

Requested: \$941,968

Amount
Total amount

recommended: \$532,032

Number	Agency—City(Program Title)	Amount Requested	Amount Recomm Staff Rvw.	Amount Recomm Grnt. Rvw.	Amount Recommended Crime Comm.
09-WX-7000	Admin Office of Courts & Prob. - Lincoln	\$ 53,729.00	\$49,894	\$ 49,894.00	\$ 90,504.00
09-WX-7001	CDVIP - North Platte	\$ 46,343.00	\$38,480.00	\$38,480.00	\$38,480.00
09-WX-7002	Crisis Center for DA/SA - Fremont	\$ 14,911.00	\$14,911.00	\$14,911.00	\$14,911.00
09-WX-7003	The SAFE Center - Kearney	\$ 29,034.00	\$9,166.00	\$9,166.00	\$9,166.00
09-WX-7004	Bright Horizons - Norfolk	\$ 46,006.00	Deny	Deny	Deny
09-WX-7005	Crisis Center - Grand Island	\$ 16,516.00	\$13,826.00	\$13,826.00	\$13,826.00
09-WX-7006	NE State Patrol - Lincoln	\$ 20,615.00	\$20,615.00	\$20,615.00	\$67,329.00
09-WX-7007	NE DV/SA Coalition - Lincoln	\$ 88,735.00	\$45,600.00	\$45,600.00	\$45,600.00
09-WX-7008	NE Atty General's Office - Lincoln	\$8,106.00	\$4,000.00	\$6,000.00	\$50,613.00
09-WX-7009	Lancaster Co. Justice Council - Lincoln	\$ 263,886.00	\$104,220.00	\$104,220.00	\$159,441.00
09-WX-7010	Sandhills Crisis Intervention Program - Ogallala	\$ 69,211.00	\$49,926.00	\$49,926.00	\$49,926.00
09-WX-7011	DV Coord. Council of Greater Omaha - Omaha	\$ 284,876.00	\$179,394.00	\$179,394.00	\$287,149.00

TOTAL

\$ 941,968.00	\$ 530,032.00	\$ 532,032.00	\$ 826,945.00
---------------	---------------	---------------	---------------

Attachment #4

2009 Byrne Justice Assistance Grants (JAG)

ARRA Funds

Total funds available: \$7,414,211 (State-\$2,808,503/Local-\$4,605,708)
amount requested: \$5,462,678

Total
Total amount

recommended: \$3,030,711 (State-\$951,135/Local-\$2,079,576)

<i>Number</i>	<i>Agency—City</i>	<i>Amount Requested</i>	<i>Amount Recomm Staff Rvw.</i>	<i>Amount Recomm Grant Rvw.</i>	<i>Amount Crime Commission Recommendations</i>
09-DX-9000	NE Dept of Corrections - Lincoln	\$ 60,135.00	\$60,135.00	\$60,135.00	\$60,135.00
09-DX-9001	City of Lincoln - Lincoln	\$ 468,893.00	\$228,891.00	\$309,891.00	\$309,891.00
09-DX-9002	City of Norfolk - Norfolk	\$ 41,491.50	Deny	Deny	Deny
09-DX-9003	Dawson County - Lexington	\$ 131,275.00	Deny	Deny	Deny
09-DX-9004	City of Fremont - Fremont	\$ 112,500.00	\$104,600.00	\$104,600.00	\$104,600.00
09-DX-9005	Phelps County - Holdrege	\$ 77,954.00	\$60,000.00	\$60,000.00	\$60,000.00
09-DX-9006	No Platte PD - North Platte	\$ 96,315.00	Deny	Deny	Deny
09-DX-9007	NE State Patrol - Lincoln	\$ 1,223,523.00	\$171,000.00	\$171,000.00	\$974,030.00
09-DX-9008	NE Atty General's Office - Lincoln	\$ 45,276.00	\$12,000.00	\$20,000.00	\$20,000.00
09-DX-9009	NE Crime Commission - Lincoln	\$ 1,040,450.00	\$700,000.00	\$700,000.00	\$700,000.00
09-DX-9010	City of Omaha - Omaha	\$ 2,164,866.00	\$612,235.00	\$1,605,085.00	\$612,235.00

TOTAL	\$ 5,462,678.50	\$ 1,948,861.00	\$ 3,030,711.00	\$ 2,840,891.00
--------------	------------------------	------------------------	------------------------	------------------------